

ASSEMBLY BILL

No. 2742

Introduced by Assembly Member Mountjoy

February 20, 2004

An act to amend Section 2653 of the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2742, as introduced, Mountjoy. Prisons: medical treatment.

Existing law provides that the order of a physician for specified medical treatment may not be modified or canceled by any employee of the department without the approval of the chief medical officer of the institution or the physician in attendance except as specified. A person violating this provision is subject to appropriate disciplinary action by the Department of Corrections or the Youth Authority.

This bill would provide that, if an inmate is given a diagnosis and recommendation for treatment by a contract physician from within the community, no physician may interfere with the delivery of that treatment unless he or she has performed an examination of the inmate subsequent to the contract physician. A person violating this provision would be subject to appropriate disciplinary action by the department, and is guilty of an infraction punishable by a fine of up to \$1,000. A 2nd or subsequent conviction for this offense would be a misdemeanor.

By defining a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2653 of the Penal Code is amended to
2 read:

3 2653. (a) If a physician employed by the Department of
4 Corrections or the Department of the Youth Authority certifies in
5 writing that a particular medical treatment is required to prevent
6 a violation of Section 147, 673, 2650, or 2652, or is required to
7 prevent serious and imminent harm to the health of a prisoner, the
8 order for that particular medical treatment may not be modified or
9 canceled by any employee of the department without the approval
10 of the chief medical officer of the institution or the physician in
11 attendance unless an inmate or ward has a known history of violent
12 or otherwise disruptive behavior that requires additional measures
13 to protect the safety and security of the institution specified in
14 writing by the warden or superintendent, or unless immediate
15 security needs require alternate or modified procedures.
16 Following any necessary modified or alternate security
17 procedures, treatment of the inmate or ward shall be effected as
18 expeditiously as possible.

19 Nothing in this section shall be construed to prevent a registered
20 nurse from questioning, or seeking clarification of, an order from
21 a physician that in the professional judgment of that nurse
22 endangers patient health or safety, or otherwise is contrary to the
23 professional ethics of the registered nurse.

24 (b) *If an inmate is given a diagnosis and recommendation for*
25 *treatment by a contract physician from within the community, no*
26 *physician may interfere with the delivery of that treatment unless*
27 *he or she has performed an examination of the inmate subsequent*
28 *to the contract physician.*

29 (c) Any person who violates this section shall be subject to
30 appropriate disciplinary action by the department. *In addition, a*
31 *violation of subdivision (b) is an infraction punishable by a fine of*
32 *up to \$1,000. A second or subsequent violation of subdivision (b)*
33 *is a misdemeanor.*



1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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